



**STATE OF TENNESSEE
DEPARTMENT OF COMMERCE AND INSURANCE
TENNESSEE REAL ESTATE COMMISSION
500 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243
615-741-2273
<http://www.tn.gov/commerce/section/real-estate-commission>**

MINUTES

The Tennessee Real Estate Commission held a meeting September 7, 2016 at 9:00 a.m. in Nashville, Tennessee.

The Meeting was called to order by Chairman, Griess.

Griess, Board Chairman welcomed everyone to the Board meeting.

Mr. Young, Executive Director called roll. The following Commission Members were present: Chairman John Griess, Vice Chairman Commissioner Austin McMullen, Commissioner Diane Hills, Commissioner Marcia Franks, Commissioner Fontaine Taylor, Commissioner Gary Blume, Commissioner Johnny Horne, and Commissioner Bobby Wood. Commissioner Rick Douglass was absent. Others present: Executive Director Malcolm Young, Assistant General Counsel Mallorie Kerby, and Commission Staff Brooke Chartrand.

AGENDA- Motion made by Commissioner McMullen and seconded by Commissioner Hills to approve the agenda. Motion carried unanimously.

Motion by Commissioner Hills seconded by Commissioner Blume to allow those attending via teleconference to be counted as attending the meeting to complete the reinstatement process, motion passes unanimously.

MINUTES-

Minutes for the August 10, 2016 board meeting were submitted for changes and/or approval.

Motion made by Commissioner Franks and seconded by Commissioner McMullen to approve the August 10, 2016 minutes. Motion carried unanimously.

Minutes for the August 22, 2016 Commission Emergency Rule meeting were submitted for changes and/or approval.

Motion made by Commissioner Franks and seconded by Commissioner Taylor to approve the August 22, 2016 minutes. Motion carried unanimously

SPECIAL APPEARANCES-

Ahmad Lewis- Regulatory Board Auditor

Mr. Lewis presented to the Commission statistics based off of the past 3 months of audits. He showed the Commissioners the most common findings, such as co-mingling, escrow/trust deposits, escrow/trust disbursement, and record keeping. Mr. Lewis also walked through the current audit process.

John Giffon- Educator and Instructor presented an update to the Commissioners regarding a new course specific to Principal Brokers that he is currently drafting.

INFORMAL APPEARANCES-

Application for Affiliate Broker licensure; Wesley Keene

Motion made by Commissioner Franks and seconded by Commissioner McMullen to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; Christina Fisher

Motion made by Commissioner Franks and seconded by Commissioner Horne to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; Sherry Harrington

Motion made by Commissioner Wood and seconded by Commissioner Taylor to approve applicant for licensure process. Motion carried unanimously.

Application for Timeshare licensure; Gregory Weston

Motion made by Commissioner Franks and seconded by Commissioner Wood to approve applicant for licensure process. Motion carried unanimously.

Application for Affiliate Broker licensure; Kevin Gray

Motion made by Commissioner McMullen and seconded by Commissioner Hills to approve applicant for licensure process, contingent on legal review of probationary timeline. Motion carried unanimously.

COMMISSION DISCUSSION-

The Commission instructed the Education Director, Ross White, to finalize Instructor Certification Training to be approved at the October meeting.

2017 Off Site Commission Meeting location have been confirmed, TREC will be visiting Collierville Town Hall and Hamilton County in Chattanooga. Motion by Taylor seconded by Hills, motion passes unanimously.

The Commission discussed the timeline as to when Earnest Money should be deposited into earnest accounts as per Rule 1260-02-.11.

Single Family rental, can an unlicensed individual unlock the door? If the unlicensed individual does not act in the capacity of a broker as defined by 62-13-102, an unlicensed individual may unlock a door. Motion by Commissioner Franks seconded by Commissioner Wood, motion carries unanimously.

Review and Vote regarding the Informal Applicant Process rulemaking Filing. Motion by Commissioner Hills seconded by Commissioner Taylor to approve the language as provided to the Commission by legal, motion passes unanimously.

Advertising regarding current Commission rules as it relates to social media. Review the possibility of removing firm phone numbers from advertising rules. Commissioners requested to defer to the October meeting for more information to be presented at that time.

Chairman Griess recognized the Executive Director for his hard work, dedication, leadership, enthusiasm, and professionalism over the past 6 months with The Real Estate Commission.

Clarification of reinstatement requirements as it applies to the current mandatory meeting requirement. Currently, licensees are allowed to practice real estate if they are expired, still within the reinstatement period (31 days- 365 days after expiration) and have met all the requirements for reinstatement, except attend the meeting. Emergency Rule is in front of the Attorney General to make a determination that will eliminate the need for the attendance.

EDUCATION REPORT-

Motion made by Commissioner Franks to approve courses S1-S19 motion seconded by Commissioner Wood. Motion carried unanimously.

Motion made by Commissioner Franks to approve instructors S1-S19 and seconded by Commissioner Wood. Motion carried unanimously.

LEGISLATIVE PROPOSAL UPDATE-

EXECUTIVE DIRECTORS REPORT-

Director Young notified the Commissioners of the ongoing internal audit that is currently taking place, once the audit is completed Mr. Young will report back with the results.

Review of Financial and Statistical Reports

LEGAL REPORT- Staff Attorney

Appearance of complaint- Motion by Commissioner McMullen seconded by Commissioner Franks to appear before the ALJ. Motion passes 6-1 with Commissioner Horne against. Commissioner Taylor recused.

Pending litigation- The Commission voted to accept office of legal counsel's advice, assessing a \$2,000 civil penalty and removing the downgrade previously voted on by the Commission. Motion by Commissioner McMullen seconded by Commissioner Franks. Motion passes 5-1, Commissioner Taylor against and Commissioner Blume recused.

1. 2015020141
Opened: 8/19/15
First License Obtained: 6/4/87
License Expiration: 8/26/17
E&O Expiration: 1/1/17
Type of License: Affiliate Broker
History: no prior disciplinary action

2. 2015020151
Opened: 8/19/15
First License Obtained: 12/16/83
License Expiration: 10/28/16
E&O Expiration: 1/1/17
Type of License: Principal Broker
History: no prior disciplinary history

3. 2015020161
Opened: 8/19/15
First License Obtained: 10/4/07
License Expiration: 2/16/16
E&O Expiration: 1/1/17
Type of License: Principal Broker
History: no prior disciplinary action

4. 2015020171
Opened: 8/19/15
First License Obtained: 2/24/86
License Expiration: 8/18/16
E&O Expiration: 1/1/17
Type of License: Broker
History: no prior disciplinary action

DECISION: Dismiss as to Respondents 3 and 4.

Respondent 1: \$2000 for 2 violations (\$1000 each) of T.C.A. § 62-13-403(1)(failure to exercise reasonable skill and care) – one for non-disclosure to Respondent 3 of the prior contract and one for advising clients to execute a second contract on the property without contingency language – T.C.A. § 62-13-312(b)(14), \$1000 for violation of T.C.A. § 62-13-403(4)(provide services to each party to the transaction with honesty and good faith), and attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the consent order.

Respondent 2: \$1000 for violation of T.C.A. § 62-13-312(b)(15)(failure to supervise), (14), \$1000 for violation of T.C.A. § 62-13-313(a)(2)(failure to respond), \$1000 for violation of T.C.A. § 62-13-403(4)(provide services to each party to the transaction with honesty and good faith)and attendance at one entire regularly scheduled meeting of the Commission within 180 days of execution of the consent order.

Recommendation: Discuss.

DECISION: The Commission voted to uphold their original decision with respect to Respondents 1 and 2.

RECOMMENDATION:

Respondent 1: Assess a civil penalty of five hundred dollars (\$500) for one violation of TENN. COMP. R. & REGS. 1260-02-.08 for not including language in the Complainants' PSA designating it as a back-up contract. This penalty takes into consideration the mitigating factor that all parties were aware of that fact upon signing the PSA.

Respondent 2: Close.

Decision: Commission voted to reopen the complaint against Respondent 3 and send Letters of Warning for Respondent 1 and 3. The Commission also voted to close the complaint against Respondent 2.

5. 2016000651
Opened: 2/25/16

First Licensed: 4/13/76
Expiration: 10/31/16
Type of License: Principal Broker
History: No history of disciplinary action.

Recommendation: Consent order for \$250 for violation of T.C.A. § 62-13-404(2)(failure to be loyal to the interests of the client) and \$250 for violation of T.C.A. § 62-13-403(4)(failure to provide services with good faith).

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Wood, motion passes unanimously.

6. 201601641
Opened: 03/18/16
First Licensed: 10/05/09
Expiration: 10/04/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Taylor, motion passes unanimously.

7. 2016016431
Opened: 03/28/16
First Licensed: 6/12/07
Expiration: 6/11/17
Type of License: Principal Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Hills, motion passes unanimously.

8. 2016018391
Opened: 03/28/16
First Licensed: 11/07/07
Expiration: 11/06/17
Type of License: Principal Broker
History: 201604321 received by staff

9. 2016018392
Opened: 03/28/16
First Licensed: 12/01/2000
Expiration: 12/31/07
Type of License: Affiliate Broker

History: No Prior Disciplinary Action.

10. 2016018393

Opened: 03/28/16

First Licensed: 3/19/14

Expiration: 3/18/18

Type of License: Affiliate Broker

History: No Prior Disciplinary Action.

11. 2016018394

Opened: 03/28/16

First Licensed: 7/05/79

Expiration: 4/16/17

Type of License: Principal Broker

History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Hills, motion passes unanimously.

12. 2016018721

Opened: 03/28/16

First Licensed: 12/16/04

Expiration: 3/21/18

Type of License: Affiliate Broker

History: No Prior Disciplinary Action.

Recommendation: Consent Order for \$500 for violation of T.C.A. § 62-13-312(b)(20)(improper, fraudulent or dishonest dealing)

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Wood seconded by Commissioner Franks, motion passes 8-1. Commissioner Blume against.

13. 2016018471

Opened: 03/29/16

First Licensed: 12/14/07

Expiration: 12/13/17

Type of License: Real Estate Firm

History: No Prior Disciplinary Action.

Recommendation: Dismiss unless the Commission finds that providing the disclosure prior to an offer being received is against the interests of the client or a lack of skill and care.

Decision: *The Commission voted to accept the recommendation of legal counsel to dismiss.* Motion by Commissioner Taylor seconded by Commissioner Wood, motion passes unanimously.

14. 2016019531

Opened: 4/05/16
First Licensed: 10/06/04
Expiration: 12/23/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action.

Recommendation: \$100 consent order for violation of T.C.A. 62-13-403(7)(acting on behalf of immediate family without timely written consent of all parties)

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Taylor seconded by Commissioner Horne, motion passes unanimously.

15. 2016019551
Opened: 4/05/16
First Licensed: 06/05/86
Expiration: 12/10/17
Type of License: Principal Broker
History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Wood, motion passes unanimously.

16. 2016019421
Opened: 4/5/16
First Licensed: 11/21/12
Expiration: 11/20/16
Type of License: Real Estate Firm
History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Griess seconded by Commissioner Franks, motion passes unanimously.

17. 2016019861
Opened: 4/6/16
First Licensed: 7/14/14
Expiration: 7/13/18
Type of License: Affiliate Broker
History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Taylor, motion passes unanimously.

18. 2016019881

Opened: 4/6/16
First Licensed: 10/18/05
Expiration: 10/17/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action.

Recommendation: Dismiss and open a complaint against the defendant LLCs, Respondent, and the owner of the other defendant LLC, also a named defendant, for unlicensed activity.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Horne seconded by Commissioner Hills, motion passes unanimously.

19. 2016020321
Opened: 4/9/16
First Licensed: 07/28/06
Expiration: 11/16/17
Type of License: Affiliate Broker
History: No Prior Disciplinary Action.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Wood, motion passes unanimously.

20. 2016020341
Opened: 4/9/16
First Licensed: 2/16/94
Expiration: 5/22/17
Type of License: Principal Broker
History: 2016043341 and 2016034271 under review by legal

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Griess seconded by Commissioner Franks, motion passes unanimously.

21. 2016034271
Opened: 6/17/16
First Licensed: 2/16/94
Expiration: 5/22/17
Type of License: Principal Broker
History: 2016043341 and 2016020341 under review by legal

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Griess seconded by Commissioner Hills, motion passes unanimously.

22. 2016028021
Opened: 4/17/16
First Licensed: 2/12/86
Expiration: 2/20/17
Type of License: Broker
History: No Prior Disciplinary Action

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Griess seconded by Commissioner Franks, motion passes unanimously.

23. 2016028061
Opened: 4/26/16
First Licensed: 1/21/03
Expiration: 6/16/18
Type of License: Principal Broker
History: 2016033811 under review by legal

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Taylor seconded by Commissioner Hills, motion passes unanimously.

24. 2016033811
Opened: 4/26/16
First Licensed: 1/21/03
Expiration: 6/16/18
Type of License: Principal Broker
History: 2016028061 under review by legal

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Griess seconded by Commissioner Hills, motion passes unanimously.

25. 2016022821
Opened: 4/26/16
First Licensed: 10/14/10
Expiration: 10/13/16
Type of License: Broker
History: 2016028061 under review by legal

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Taylor seconded by Commissioner Wood, motion passes unanimously.

26. 2016019301

Opened: 04/05/16
First Licensed: 9/20/06
Expiration: 9/19/16
Type of License: Affiliate Broker
History: No History of Disciplinary Action.

Recommendation: Consent order for \$500 for violation of T.C.A. § 62-13-301 and § 62-13-309(a)(1)(a) and 4 hours of CE in property management to be completed within 180 days from execution of the consent order above the minimum requirement for renewal.

Decision: Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Taylor seconded by Commissioner Franks, motion passes unanimously.

27. 2016019321
Opened: 4/5/16
First Licensed: 4/7/15
Expiration: 4/13/17
Type of License: Affiliate Broker
History: No Prior History.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Taylor, motion passes unanimously.

28. 2016019341
Opened: 4/5/16
First Licensed: 10/19/01
Expiration: 4/13/17
Type of License: Principal Broker
History: June 2014 Consent Order Earnest money dispute \$500 civil penalty

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Griess, motion passes unanimously.

29. 2016020191
Opened: 4/8/16
First Licensed: 1/28/15
Expiration: 1/27/17
Type of License: Affiliate Broker History: No Prior History.

30. 2016020192
Opened: 4/8/16
First Licensed: 4/23/14
Expiration: 4/22/18
Type of License: Affiliate Broker History: No Prior History

Recommendation: Consent order for \$100 for violation of Rule 1260-02-.12(3)(b)(1)(firm name must be the most prominent name in the advertising).

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Taylor, motion passes 7-1; Commissioner Wood against.

31. 2016042981
Opened: 2/4/16
First Licensed: 3/24/08
Expiration: 3/23/17
Type of License: Time Share Registration History: No Prior History

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Griess, motion passes unanimously.

32. 2016019461
Opened: 4/5/16
First Licensed: 5/19/06
Expiration: 5/18/18
Type of License: Affiliate Broker
History: No Prior History.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Wood, motion passes unanimously.

33. 2016019481
Opened: 4/5/16
First Licensed: 8/30/96
Expiration: 6/21/17
Type of License: Principal Broker
History: 201603463 Under Review By Legal. June 2012 Consent Order for Escrow Violation.

Recommendation: Dismiss.

Decision: *The Commission voted to accept the recommendation of legal counsel.* Motion by Commissioner Franks seconded by Commissioner Taylor, motion passes unanimously.

Meeting adjourned by Chairman John Griess at 5:07 pm.